



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Montana State Office
222 North 32nd Street
P.O. Box 36800
Billings, Montana 59107-6800

SDR-922-95-01
MTM-0707A
MTBIL-042177A
3165.3 (922.JA)

January 4, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DECISION

Mr. Jerry Green)	
Castle Resources, Incorporated)	SDR No 922-95-01
1200 E. 27, Suite C)	
Hays, Kansas 67601-2120)	

Affirmed in Part, Overturned in Part

Castle Resources, Inc. (Castle) requested a State Director Review (SDR), of a Notice of Incidents of Noncompliance (INC) (Enclosure 1), issued by the Miles City District Office (MCDO) on October 25, 1994, for failure to document the reasons for removal of, or installation of seals on production facilities at the No. 1A well on Federal Lease MTBIL-042177A. Castle also requested an SDR of an INC (Enclosure 2), issued by the MCDO on November 1, 1994, that included two \$250.00 assessments for a \$500.00 total assessment. These assessments are following issuance of two letter INCs from the Authorized Officer (AO) requesting corrective action for several items identified during an inspection of the Repeat No. 1, Lot 5 and Repeat No. 1, Lot 6 wells on Federal Lease MTM-0707A (Enclosure 3). The request for an SDR was included with the returned INCs filed in the MCDO on November 15, 1994. The SDR request was considered timely filed on November 15, 1994, in accordance with 43 CFR 3165.3(b) and assigned number SDR-922-95-01. A request for a time extension to submit supporting documentation was granted by this office and supporting documentation was received in this office on November 28, 1994, and on December 1, 14, and 16, 1994. (Enclosure 4).

An inspection conducted by the MCDO on Federal Lease MTBIL-042177A on October 25, 1994, resulted in issuance of the INC No. 161 for not documenting the reasons for removal of, or installation of seals. In MCDO's Report of Telephone Conversation dated November 3, 1994, (Enclosure 5) between MCDO and Castle, regarding INC No. 161, Castle stated that they have seal records showing the reasons for removal of, or installation of seals. The MCDO stated that the INC would be rescinded if the records indicated such. The MCDO reviewed the seal records provided by Castle (Enclosure 4) and concluded that these records were not complete and still not in compliance. The INC was not rescinded.

In their letter of November 21, 1994, (Enclosure 4) Castle stated that the recycle lines R1 and R2 were a closed system used only for recycling; therefore, the reason for using the recycle lines was not recorded. Castle also requested that the violation be changed from major to "minor bookkeeping."

On December 14, 1994, Castle furnished copies of run tickets (Enclosure 4) to establish reasons for the removal of, or installation of seals, on the sales line valves.

The run tickets submitted by Castle did provide reasons for the removal of, or installation of, the purchasers seals which were used on the sales line valves. However, upon review of the facility diagram for the Govt. McGee 1A well on lease MTBIL-042177A (Enclosure 4), it was noted that there are fill line valves and equalizer line valves which must be documented on the seal record at the time of removal of, or installation of seals. The R1 or R2 (recycle line) valves must be sealed closed when isolating the associated tank for sales, again requiring documentation on the seal record of the reason for removal of, or installation of seals. Therefore, based on a review of the seal records submitted by Castle in conjunction with the above information, we find that INC No. 161 was properly issued by the MCDO.

In regard to Castle's request to change this violation from major to "minor bookkeeping," the regulations in Onshore Order #3, III.G.1. establish the standards for this violation as major, thus, the request is denied.

Inspections of Federal Lease MTM-0707A, and two associated wells and equipment, were conducted on July 28, 1994. These inspections resulted in two letter INCs from the MCDO on July 29, 1994. One of these letter INCs was issued for corrective actions needed on the Repeat No. 1, Lot 6 well. The assessment INC (Page 2 of No. DB95-1) issued on November 1, 1994, identified noncompliance with the following items from the July 29, 1994, letter INC.

1. Backfill flowline trench after testing line for leaks by August 12, 1994. Place fill material where trench has settled
2. Complete installation of buried power line and backfill trench by August 12, 1994.
3. Install a well sign with information required by 43 CFR 3162.6 by September 1, 1994.

Castle requested a waiver of the fine on items 1 and 2. The \$250.00 assessment issued was for all three items listed above. Upon return of the INC, Castle stated that item 1, "...was at least partially done." Castle states in its November 21, 1994, letter that item 1 is complete and that they are willing to improve the work if it is not completed satisfactorily. Records of work completed by Crown Construction shows that work was done on item 1 on August 5, 1994 (Enclosure 4). Castle also states that item 2 needs to be identified in the field for them before corrective action can be taken. Castle was not aware of an uncovered power line on the location. Castle further states that a meeting with the MCDO personnel to resolve items 1 and 2 is more appropriate than a fine. Castle admits that they failed to complete item 3.

An analysis of the record shows that all three of these items were included in the July 29, 1994, letter INC. However, item 2 cannot be included in this letter INC since it was not covered by a specific standard or requirement of the onshore oil and gas regulations, a condition of approval (COA) from a permit issued to Castle to conduct activities on the Repeat No. 1, Lot 6 well, or an oral order confirmed in writing in accordance with 43 CFR 3161.2. The INC's can only be issued against specific standards and requirements of the regulations, an Onshore Oil and Gas Order or Notice to Lessees, a written order or a lease stipulation, or Application for Permit to Drill (APD)/Sundry Notice (SN) COA (43 CFR 3163.1(a) and further clarified by Washington Office (WO) Instruction Memorandum (IM) Number 93-246 and the Interim Inspection & Enforcement Strategy Handbook (H-3160-5) section on Oil and Gas Enforcement Policy and Procedures). Consequently, the requirement to complete installation of the buried power line and backfill the trench by August 12, 1994, should not have been included as a violation in the July 29, 1994, letter INC or as a violation for failure to correct this default in the November 1, 1994, \$250.00 Assessment INC.

Item 1 was included as a specific COA attached to a SN approved by the MCDO on July 11, 1994, (Enclosure 6) and item 3 is specifically covered by the regulations at 43 CFR 3162.6, therefore, it was appropriate to include these items with the July 29, 1994, letter INC. According to the inspection report the well sign was still not in place and the flow line trench was not completely backfilled at the time of the reinspection on November 1, 1994. Castle acknowledges that such a sign has not been placed on the wellsite as of the date of this review.

The second July 29, 1994, letter INC was issued for corrective actions needed for the Repeat No. 1, Lot 5 well. The assessment INC (Page 1 of No. DB95-1) issued on November 1, 1994, identified noncompliance with the following items from the July 29, 1994, letter INC.

1. Remove fluids from reserve pit by September 1, 1994. Fluids must be treated or disposed of at an approved disposal facility.
2. Install a well sign with information required by 43 CFR 3162.6 by September 1, 1994.

Upon return of the INC, Castle stated that fluids were removed from the reserve pit on two occasions. Records of work completed by Crown Construction shows that pit water was removed on September 10, 1994 (Enclosure 4). Castle also states in the November 21, 1994, letter, that rainwater partially filled the reserve pit on two occasions. Castle admits that they failed to complete item 2.

An analysis of the record shows that both of these items were included in the July 29, 1994, letter INC. However, item 1 should not have been included in the letter INC since the compliance timeframe was not violated at the time the July 29, 1994, letter INC was issued. Castle had not demonstrated a failure or refusal to comply with the September 1, 1994, timeframe to remove fluids from the reserve pit at the time of the inspection which resulted in the July 29, 1994, letter INC (43 CFR 3163.1(a)). Consequently, the requirement to remove fluids from the reserve pit by September 1, 1994, should not have

been included as a violation in the July 29, 1994, letter INC or as a violation for failure to correct this default in the November 1, 1994, \$250.00 Assessment INC.

The well sign was still not in place at the time of the reinspection on November 1, 1994, and Castle admits that they failed to complete installation of the well signs.

The MCDO acted correctly in issuing the INC for incomplete seal records and the original letter INCs (Enclosure 1 & 3) for failure to install well signs and failure to complete operations needed to backfill the flowline trench. However, the letter INCs included a requirement to complete installation of the buried power line within a specific abatement period and also reiterated the requirement from the COAs for the Repeat No. 1, Lot 5 APD to remove fluids from the reserve pit by September 1, 1994 (Enclosure 7). It shall be noted that an assessment could not be imposed, based on a violation of those portions of the letters, since the requirement to complete installation of the buried power line was not covered by specific regulation, a previously issued COAs, or an order from the AO and the condition of approval to remove fluids from the reserve pit was not violated at the time of the inspection which resulted in the July 29, 1994, letter INCs.

The November 1 assessment INC was not issued according to the instructions for preparing an INC, Form 3160-9, since more than one violation was included on each INC form. Bureau of Land Management policy relative to completing Form 3160-9 is outlined in WO IM No. 93-246 and the Interim Inspection & Enforcement Strategy Handbook (H-3160-5) section on Oil and Gas Enforcement Policy and Procedures. This policy states that, "A separate form must be prepared for each violation."

The MCDO acted properly after followup inspections by correctly issuing an assessment INC for failure to comply with the portions of the original letter INCs that properly documented violations. However, the assessment INCs were not completed according to established BLM policy.

We affirm the MCDO decision to issue an INC for a major violation for failure to provide complete records of the reasons for removal or installation of each seal on lease MTBIL-042177A. The MCDO decision to issue the two assessments of \$250.00 for the violations on lease MTM-0707A is overturned because the November 1, 1994, assessment INC was not completed according to established BLM policy. Thus, Castle is relieved of the \$500.00 assessment.

Additional concerns expressed by Castle in their November 21, 1994, letter and supporting documentation are outside the scope of this SDR. These concerns will be addressed separately by the State Director and the MCDO Manager (Enclosure 8). Castle also questioned the need to empty the freshwater from the reserve pit in their December 14, 1994, letter (Enclosure 4). Since the violation for failure to remove fluids from the reserve pit is overturned, this SDR will not address this issue. However, it will be addressed by the MCDO Manager along with all the other issues not covered by this SDR.

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and Form 1842-1 (Enclosure 9). If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the decision appealed from is in error.



Thomas P. Lonnie
Deputy State Director
Division of Mineral Resources

9 Enclosures

- 1-MCDO INC Dated October 25, 1994 (1 pp)
- 2-MCDO Assessment INC Dated November 1, 1994 (2 pp)
- 3-MCDO Original Letters Dated July 29, 1994 (4 pp)
- 4-Supporting Documents Submitted by Castle (28 pp)
- 5-November 3, 1994, Report of Telephone Conversation (1 pp)
- 6-July 11, 1994, Approved SN and Conditions of Approval (2 pp)
- 7-May 16, 1994, Approved APD and Conditions of Approval (5 pp)
- 8-MSO Letter to Castle (1 pp)
- 9-Form 1842-1 (1 pp)

cc: (w/encls.)
MCDO